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APPLICATION NO.	FILING I	DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/395,805	09/14/	1999	HIDEYUKI KINOSHITA	PM-264009	PM-264009 6497	
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CHICAGO, I	IL 60603-3406 ART UNIT		PAPER NUMBER			
				1774	27	
				DATE MAILED: 11/06/2002	ω_{l}	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Obffice Action Summary Examiner Beteinem Shewareged 1774 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply specified above is less than thisly (30) caps, a reply within the statutiony minerum of then) (30) days will be considered timely. If the period for reply specified above is less than thisly (30) caps, a reply within the statutiony minerum of then) (30) days will be considered timely. If the period for reply specified above is less than thisly (30) caps, a reply within the statutiony minerum of then) (30) days will be considered timely. If the period for reply specified above is less than thisly (30) caps, a reply within the statutiony minerum of then) (30) days will be considered timely. If the period for reply specified above is less than thisly (30) caps, a reply within the statutiony minerum of then) (40) days will be considered timely. If the period for reply specified above is less than thisly (30) caps, a reply within the statution of the period of this communication. If the period for reply specified above is less than thisly (30) caps, a reply within the statution of the period of this communication. A prophy reply replicated the statution of the thin the statution of the period of the communication. A prophy replication is FINAL. 2			AS	AS-2	
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.35(a). In no evant, however, may a reply be timely field Extensions of time may be available under the provisions of 37 CFR 1.35(a). In no evant, however, may a reply be timely field Extensions of time may be available under the provisions of 37 CFR 1.35(a). In no evant, however, may a reply be timely field If the period for reply is specified above, he maximum statutory period will apply each will expire SIX (0) MONTHS from the mailing date of this communication. Provision of the communication. Provision of the communication of the provision of					
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1) Responsive to communication(s) filed on 24 October 2002. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1 and 4-10 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) eccepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Copies of the cartified copies of the priority documents have been received in Application No 3. Copies of the cartified copies of the priority documents have been received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) Index the priority documents have been received. 5) Notice of References Cited (PTO-992) 9) Notice of Informal Patent Application (PTO-152)	THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a rep. - If NO period for reply is specified above, the maximum statutory period. - Failure to reply within the set or extended period for reply will, by statut. - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however, may a repoly within the statutory minimum of thirty (1) will apply and will expire SIX (6) MONTHE, cause the application to become ABA	ly be timely filed 30) days will be considered timely. IS from the mailing date of this communication. NDONED (35 U.S.C. § 133).		
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DETAILED ACTION

Applicant's Request for Continued Examination has been fully considered. Claim
 is amended, claims 9 and 10 are added and claims 1 and 4-10 are pending.

2. Claims 1 and 4-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawatsu et al. (US 6,025,286).

A heat-sensitive stencil sheet comprises a fibrous support of polyester fibers, and a polyester film laminated on the fibrous support. Adhesive may be used for laminating the fibrous support and the polyester film (abstract, background art and claim 1). With respect to tensile strength value, T-H value, and KES bending rigidity value B it is elementary that the mere recitation of newly discovered function or property, inherently possessed by things in the prior art, does not cause a claim drawn to those things to distinguish over the prior art. *In re swinehart et al.*, 169 USPQ 226 at 229. Since the Kawatsu reference teaches all of Applicant's claimed compositional and positional limitations, it is inherent that the reference article function in the same manner claimed by Applicant. The burden is upon Applicant to prove that the subject matter shown to be in the prior art does not possess the characteristic relied on.

Applicant is arguing that the record lacks citation to any specific passage in the Kawatsu reference that demonstrates that the allegedly inherent characteristic, residual torque as claimed, inevitably, necessarily, inherently is a characteristic of the closest product described in the patent upon which examiner relies. Applicant has not received and Examiner's Declaration.

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Applicant's argument is not persuasive for the following reason. The examiner has never indicated that the claimed properties (i.e., tensile strength value, T-H value, and KES bending rigidity value B) are disclosed in the Kawatsu reference. The examiner showed that Kawatsu discloses a heat-sensitive stencil sheet comprises a fibrous support of polyester fibers (which is equivalent to the claimed fiber-containing porous substrate), and a polyester film (which is equivalent to the claimed thermoplastic resin film) laminated on the fibrous support. See abstract, background art and claim 1. It is clear from the above sentence that Kawatsu's compositional and positional limitations are substantially identical to the claimed compositional and positional limitations; therefore, the reference article inherently functions in the same manner claimed by Applicant. It means that the reference article would possess the claimed properties. Therefore, the claimed invention reads upon the disclosed prior art.

Furthermore, the examiner is not capable of performing any scientific tests to show that the reference article inherently functions in the same manner claimed by Applicant. The examiner can only work from the information disclosed in the reference article and the declaration submitted by the applicant. Therefore, the examiner is not capable of providing the applicant a declaration.

In addition, the applicant explains that the declaration of Nakao concerns Sample Nos. 1-9 prepared in a manner described in the present specification.

At this point, it is not clear which Samples or Examples are prepared in a manner described in the prior art, therefore, until the applicant provides a clarification, the

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declaration can not be used as a factual evidence to withdraw the Kawatsu reference as

a prior art.

For the above reasons, claims 1 and 4-8 stand rejected and claims 9 and 10 are

also included in the rejection.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Betelhem Shewareged whose telephone number is 703-

305-0389. The examiner can normally be reached on Mon.-Thur. 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Cynthia H Kelly can be reached on 703-308-0449. The fax phone numbers

for the organization where this application or proceeding is assigned are 703-305-5408

for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-308-

0651.

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 1700

Cytheles

BS 135

Novémber 1, 2002.

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